

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CHRISTOPHER JOHNSON,

Plaintiff,

v.

XCALIBUR LOGISTICS,

Defendant.

§
§
§
§
§
§
§
§
§
§

C.A. No. 4:19-CV-02996

(JURY TRIAL DEMANDED)

PLAINTIFF'S MOTION TO COMPEL
DEFENDANT'S DISCOVERY RESPONSES AND REQUEST FOR ORAL HEARING

EXHIBIT E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CHRISTOPHER JOHNSON,

Plaintiff,

v.

XCALIBUR LOGISTICS, LLC,

Defendant.

§
§
§
§
§
§
§
§

CASE NO. 4:19-cv-02996

(JURY TRIAL DEMANDED)

XCALIBUR LOGISTICS, LLC'S SUPPLEMENTAL INITIAL DISCLOSURES

To: Christopher Johnson, by and through his attorney of record, Katrina Patrick, Law Offices of Katrina Patrick, 6575 West Loop South, #500, Bellaire, Texas 77401.

Pursuant to Fed. R. Civ. P. 26(a)(1), Defendant Xcalibur Logistics, LLC ("Xcalibur" or "Defendant") makes the following supplemental initial disclosures to Plaintiff Christopher Johnson ("Johnson" or "Plaintiff"). The disclosures made herein are based upon information reasonably available to Xcalibur at the present stage of this litigation and the issues as presently defined by the pleadings. Xcalibur reserves the right to supplement, revise, or otherwise amend the information contained herein consistent with the Federal Rules of Civil Procedure, Local Rules, and any applicable orders of the Court. Xcalibur expressly and specifically does not waive any attorney-client privilege, work-product protection, or other applicable privilege through these disclosures.

- I. **The name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.**

The following list identifies those individuals who Xcalibur believes at this time are likely to have discoverable information that Xcalibur may use to support its claims or defenses. Xcalibur does not consent to any *ex parte* communications with any of its employees, and expressly

preserves all objections to any such communications. All of the persons below who are employees or former employees of Xcalibur, with the exception of Plaintiff, may be contacted through Baker & McKenzie LLP.

Name	Last Known Address and Telephone Number	Subject
Christopher Johnson	c/o Law Offices of Katrina Patrick 6575 West Loop South, #500 Bellaire, Texas 77401 Tel: (713) 796-8218	Plaintiff may have knowledge concerning his claims and damages.
Jeffrey Maronen (former employee)	26434 Morgan Creek Ln Katy, TX 77494 Tel: (832) 549-0560 c/o Baker & McKenzie, LLP 700 Louisiana, Suite 3000 Houston, Texas 77002 Tel: (713) 427-5000	Mr. Maronen may have knowledge of Xcalibur company policies and practices and Johnson's employment with Xcalibur.
Jerry Miller (former employee)	5477 SH Hwy 154 W Gilmer, TX 75644 Tel: (903) 497-1926 c/o Baker & McKenzie, LLP 700 Louisiana, Suite 3000 Houston, Texas 77002 Tel: (713) 427-5000	Mr. Miller may have knowledge of Xcalibur company policies and practices and Johnson's employment with Xcalibur.
Mike McKey (former employee)	6105 Stone Canyon San Angelo, TX 76904 Tel: (325) 812-1604 c/o Baker & McKenzie, LLP 700 Louisiana, Suite 3000 Houston, Texas 77002 Tel: (713) 427-5000	Mr. McKey may have knowledge of Xcalibur company policies and practices and Johnson's employment with Xcalibur.
Roy Ardrey (former employee)	301755 East State Highway 29 Foster, OK 73434 Tel: (405) 428-8681 c/o Baker & McKenzie, LLP 700 Louisiana, Suite 3000 Houston, Texas 77002 Tel: (713) 427-5000	Mr. Ardrey may have knowledge of Xcalibur company policies and practices and Johnson's June 2018 fuel spill.

Name	Last Known Address and Telephone Number	Subject
Elias Ashley (former employee)	PO Box 244 Brimhall, NM 87310 Tel: (505) 593-6703 c/o Baker & McKenzie, LLP 700 Louisiana, Suite 3000 Houston, Texas 77002 Tel: (713) 427-5000	Mr. Ashley may have knowledge of the 2018 incident which led to Mr. Ashley's arrest and termination.
Arturo Arreola (former employee)	4700 Dentcrest Dr Midland, TX 79707 Tel: (915) 487-3854 c/o Baker & McKenzie, LLP 700 Louisiana, Suite 3000 Houston, Texas 77002 Tel: (713) 427-5000	Mr. Arreola may have knowledge of Xcalibur company policies and practices and the 2018 incident which led to Mr. Ashley's arrest and termination.
Bruce Johnson (former employee)	661 North 275 West La Verkin, UT 84745 Tel: (801) 369-6840 c/o Baker & McKenzie, LLP 700 Louisiana, Suite 3000 Houston, Texas 77002 Tel: (713) 427-5000	Mr. Johnson may have knowledge of the 2018 incident which led to Mr. Ashley's arrest and termination.
Sandi Hayes	c/o Baker & McKenzie, LLP 700 Louisiana, Suite 3000 Houston, Texas 77002 Tel: (713) 427-5000	Ms. Hayes may have information concerning records related to Mr. Johnson's employment.
Todd Gibson	c/o Baker & McKenzie, LLP 700 Louisiana, Suite 3000 Houston, Texas 77002 Tel: (713) 427-5000	Mr. Gibson may have knowledge of Xcalibur company policies and practices and Johnson's employment with Xcalibur.

Xcalibur's investigation is ongoing. Other individuals not specifically known to Xcalibur may possess relevant information. Such individuals may include representatives of Plaintiff or parties in contact with Plaintiff. Xcalibur's identification above are not an admission that these individuals' testimony would be admissible evidence or that discovery may properly be sought from them consistent with Rule 26.

II. A copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Without waiving any objections to the production and/or admissibility of any documents, including objections based on any privilege or the work product doctrine, and subject to any protective order in this case, Xcalibur identifies the following categories of documents and/or things that, to the extent they exist and to the extent they relate to this case, Xcalibur may use to support its claims or defense:

1. Xcalibur company policies.
2. Xcalibur driver training materials.
3. Plaintiff's personnel file, including orientation documents and employee counseling notices.
4. Documents and communications, including Work Order Forms, evidencing requests by Plaintiff for truck maintenance.
5. Xcalibur Internal Notice of Incident forms, with related photos and statements, related to Plaintiff.
6. Documents regarding the termination of Elias Ashley.
7. Documents regarding Xcalibur employee terminations due to fuel spill incidents.

To the extent that they are within Xcalibur's possession, custody or control, the documents and tangible items described above are available at the offices of Baker & McKenzie LLP, 700 Louisiana, Suite 3000, Houston, Texas 77002.

Xcalibur reserves the right to further supplement these disclosures should it become aware of any additional categories of documents during discovery. Xcalibur also reserves the right to use in support of its claims or defenses any document produced by Plaintiff.

III. A computation of each category of damages claimed by the disclosing party.

Xcalibur does not seek damages in this case.

Xcalibur reserves the right to supplement its disclosures regarding the calculation of its costs of court and attorneys' fees at a later date.

IV. Any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy judgment.

Xcalibur is presently unaware of any insurance agreement under which any person or entity carrying on an insurance business may be liable to satisfy part or all of judgment that may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment.

Respectfully submitted,

BAKER & McKENZIE LLP

By: /s/ Brendan D. Cook
Brendan D. Cook
(attorney-in-charge)
Texas Bar No. 04721700
Fed. ID No. 5030
Lindsay Wright Brett
Texas Bar No. 24079608
Fed. ID No. 138776
Kathrine L. Zinecker
Texas Bar No. 24106623
Fed. ID No. 3158864
700 Louisiana Suite 300
Houston, TX 77002
Telephone: (713) 427-5000
Facsimile: (713) 427-5099
brendan.cook@bakermckenzie.com
lindsay.brett@bakermckenzie.com
katie.zinecker@bakermckenzie.com

ATTORNEYS FOR DEFENDANT
XCALIBUR LOGISTICS, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been served on lead counsel of record on February 8, 2021 by electronic mail, electronic filing, facsimile, hand delivery, and/or U.S. certified mail, return receipt requested:

Katrina Patrick
Law Offices of Katrina Patrick
6575 West Loop South, #500
Bellaire, Texas 77401
katrina@voiceoftheemployees.com

Attorney for Plaintiff.

/s/ Kathrine L. Zinecker
Kathrine L. Zinecker